

**Report on the Evaluation and Recommended Changes
To the Statutory and Regulatory Provisions Pertaining to the
Breeding and Selling of Dogs and Cats**

As Authorized by L.D. 2010

“Resolve, Directing the Commissioner of Agriculture, Food and
Rural Resources to Review and Make Recommendations
Regarding the Regulation of Dog and Cat Breeding Facilities.

Maine Department of Agriculture
Animal Welfare Program

January 15, 2009



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1. Introduction

At the conclusion of the second session of the 123rd legislature, L.D. 2010 – “Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources to Review and Make Recommendations Regarding the Regulation of Dog and Cat Breeding Facilities” was introduced by Rep. Benjamin Pratt, passed by the Legislature and then signed by the Governor on April 15, 2008.

The Resolve directs the Commissioner of Agriculture to convene a working group to evaluate the regulation of dog and cat breeding facilities in the State and recommend any changes necessary to ensure the humane treatment of animals and effective enforcement of state laws. The Resolve also directs the Commissioner in consultation with the working group to review:

1. Existing statutory and regulatory provisions pertaining to the breeding, the sale of dogs and cats, including definitions;
2. Criteria and availability of documentation to determine when a kennel or breeding kennel license is required; and
3. Statutes relating to both inspection and licensing authority in order to strengthen current authority of both municipal animal control officers and state humane agents to carry out statutory duties under state animal welfare laws and rules.

The Commissioner, in consultation with the working group, may examine definitions and provisions in other states and in federal regulations that distinguish between types of facilities requiring cats or any other criteria.

Members of the L.D. 2010 Working Group

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Christine B. Fraser, DVM, Department of Agriculture
Jeff Carr, DVM, Maine Veterinary Medical Association
Steve Dostie, Maine Federation of Humane Societies
Don Hanson, Animal Welfare Advisory Council
Laura L. Pruett, Maine Federation of Dog Clubs*
Jay Kitchener, Maine Federation of Dog Clubs
Katie Lisnik, Animal Advocacy Organization
Kenneth A. Marden, American Kennel Club
Sara Vanderwood, Down East Sled Dog Club
Kathy Ross, Maine Animal Control Officers Association
Louise Lester, Maine Town and City Clerks Association
Larry R. Doyon, Licensed Breeding Kennel Owner
Sharon Ann Paradis, Licensed Cattery Owner

*due to illness Jay Kitchener replaced Laura L. Pruett as the representative for the Maine Federation of Dog Clubs.

2. Executive Summary

A) The first issue addressed and agreed upon by the working group is the limited number of District Humane Agents employed by the Department. Limited to only six full time investigative positions that are charged with the investigation of over 1000 cruelty complaints yearly and inspection of over 500 licensed facilities cases the Program is forced to be “reactive” rather than “proactive” and unable to use education as a tool to prevent future animal abuse.

As the group discussion addressed this issue the conclusion was reached that without proper staffing levels all proposals by this working group or any other would be in vain if the Department does not have the staff to enforce proposed or current law.

B) The second issue addressed by the working group was a review of all current statutes regarding “breeding kennels”, the kennel fees, and the “Sale of Dogs and Cats” also known as the “puppy lemon law”. Initial discussion regarding this topic suggested that there was great disparity within the group on what constituted a “breeding kennel” in respect to the “hobby” kennel vs. the “commercial” kennel, what fees should be charged and other current statutes addressing breeding kennels.

While striving for conformity with these issues the working group fully realized the importance of establishing and revising Maine statutes to make them internally consistent with the goals and duties of L.D. 2010.

3. Resolve Duties and Findings

Proposed Changes to the Current Statues Relating to “Breeding Kennels”

In the working group’s efforts to propose changes to the current statutes as they relate to breeding kennels the Department staff reviewed and shared current law in other states as well as federal law. The working group appreciated the Department’s commitment that any definition proposed would be consistent and fair.

An oft-repeated concern in the working group meetings was that the current State statutes and related terms were “unfair” to the small “hobby” breeders. Because of this concern there was an immediate and unanimous agreement with the working group that any proposals concerning “hobby” breeders would be written to protect the small breeder and separate them from the “commercial” breeders both by definition and fee schedule.

A second concern expressed by the working group was that those breeders defined as “vendors” are not held to the same standards as “licensed breeders” nor are they addressed in the “Sale of Dogs and Cats” Title 7 – Chapter 745. The working group felt strongly that this is inconsistent, unfair to both licensed breeders and the public as it allows for substandard stock to be produced and sold. The sale of substandard stock by unlicensed persons reflects poorly on both the licensed breeders and the Animal Welfare Program.

After considering this issue the working group adopted the proposed changes that appear in Recommendation #2, below. This includes a new definition of “breeding kennel” to include 1) Small breeder; 2) Medium Breeder; and 3) Large Breeder. It also includes a new licensing fee which addresses these new definitions.

It should be noted that these changes include determining the size category of the breeding kennel by the total intact female dogs only. The working group believes that this will be a fairer calculation of the kennel stock production.

Recommendation #1

The working group recommends:

- 1) That the Department in conjunction with the Standing Committee on Agriculture, Conservation, and Forestry research funding options to increase the number of full time District Humane Agents and supporting staff, as needed.

Recommendation #2

The working group recommends:

- 1) The definition of Breeding Kennel is based on the number of female intact dogs, wolf hybrids or female intact cats rather than just 5 intact animals.
- 2) That a new fee schedule for breeding kennels be established based on the total number of intact female animals.
- 3) That a re-inspection fee be established for kennels who consistently fail site inspections by Department staff.

Recommendation #3

The working group recommends:

- 1). That the word “vendor” is included throughout Title 7 Chapter 745 Sale of Dogs and Cats.
- 2) That “vendor” is inserted following “seller” throughout the same chapter.
- 3) That the Department have the ability to suspend or revoke a breeding kennel license pending an Administrative Hearing as defined by the Maine Administrative Procedure Act.

Recommendation #4

In order to meet the above recommendations and to establish consistency for the definition of breeding kennel, the proposed changes of the fee schedule, the recommended changes of the Sale of Dogs and Cats within Maine Statutes the working group recommends the following:

- Replace existing statutory definitions and fee schedules for breeding kennels in Title 7 Part 9 Chapter 717 also known as the Animal Welfare Act and Title 17 – Crimes, Chapter 42 – Animal Welfare.

- Add a new section to 7 MRSA 3935-B reference re-inspections.
- Insert the word “vendor” in each section of Title 7 Chapter 745 Dogs and Cats that relates to “seller”.
- Remove the requirement in 7 MRSA 4162 Additional Penalties regarding action against pet shops and breeding kennels that the Department must file in District Court to revoke or suspend the license of a breeding kennel or pet shop that violates any provision of Chapter 745. Insert that the Department may suspend or revoke any pet shop or breeding kennel pending an administrative hearing as defined by the Maine Administrative Procedure Act.

Recommendation #5

The working group recommends:

That the Department is directed to evaluate the current Rules concerning all kennels and pet shops in order to strengthen the current authority of state humane agents and animal control officers to carry out their duties under these Rules while providing protection for those dogs and cats in substandard kennels.

4. Conclusion

Recommending a new definition for breeding kennels, a new fee schedule, and the inclusion of “vendor” in the Sale of Dogs and Cats poses several complex questions and issues. Fortunately, it is felt that composition of the working group adequately represents the diverse interests of the animal welfare community of licensed breeders, the Maine Veterinary Medical Association, the Maine Federation of Humane Societies, the Animal Welfare Advisory Council, the Town and City Clerks Association, Animal Advocacy groups, the American Kennel Club, licensed catteries, the Maine Federation of Dog Clubs, the Animal Control Officers, the Down East Sled Dog Club, the Animal Welfare Program/Department of Agriculture.

The working group does recognize that the emphasis of LD 2010 is to strengthen the current authority of state humane agents to carry out their duties but also to remain fair to the breeding kennels while providing protection for those dogs and cats in their care.

The working group is also aware that these proposed changes and additions to current statute will have broad implications and opposition. It is with this awareness that the working group was guided by a commitment to their duties as required by LD 2010. The recommendations within this report have the majority support of the working group.

We would like to thank Rep. Wendy Pieh for facilitating several of the working group’s meetings and guiding us throughout the process.

APPENDIX I

LD 2010

RESOLVE Chapter 203

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources to Review and Make Recommendations Regarding the Regulation of Dog and Cat Breeding Facilities

Sec. 1. Commissioner of Agriculture, Food and Rural Resources to convene a working group. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall convene a working group to evaluate the regulation of dog and cat breeding facilities in the State and recommend any changes necessary to ensure the humane treatment of animals and effective enforcement of state laws. The commissioner shall invite a representative of each of the following stakeholder groups to participate in the working group: the Maine Veterinary Medical Association, the Maine Federation of Humane Societies, an animal advocacy organization, the Federation of Maine Dog Clubs, the American Kennel Club, the Down East Sled Dog Club, the Maine Animal Control Officers Association and the Maine Town and City Clerks' Association. The commissioner shall invite one owner of a licensed breeding kennel and one owner of a licensed cat breeding facility to participate in the working group. The director of the animal welfare program within the Department of Agriculture, Food and Rural Resources, the state veterinarian assigned to the animal welfare program and a member of the Animal Welfare Advisory Council designated by the commissioner shall participate in the working group. The department shall provide staff to and coordinate meetings of the working group using existing resources or funds specifically donated to facilitate this undertaking; and be it further

Sec. 2. Duties. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, in consultation with the working group under section 1, shall review:

1. Existing statutory and regulatory provisions pertaining to the breeding and sale of dogs and cats, including definitions;
2. The criteria and availability of documentation to determine when a kennel or breeding kennel license is required; and
3. Statutes relating to both inspection and licensing authority in order to strengthen current authority of both municipal animal control officers and state humane agents to carry out their statutory duties under state animal welfare laws and rules.

The commissioner, in consultation with the working group, may examine definitions and provisions in other states and in federal regulations that distinguish between types of facilities requiring licenses and discuss the advisability of making regulatory distinctions based on the number of dogs or cats or any other criteria; and be it further

Sec. 3. Reporting date established. Resolved: That, no later than January 15, 2009, the Commissioner of Agriculture, Food and Rural Resources shall submit a report with findings and recommendations pursuant to the review under section 2, including any recommended legislative changes, to the joint standing committee of the Legislature having jurisdiction over animal welfare matters. The joint standing committee of the Legislature having jurisdiction over animal welfare matters may submit legislation pertaining to the definition and regulation of breeding facilities, breeding and sale of dogs and cats, enforcement of the State's animal welfare laws and regulations and humane treatment of dogs and cats to the First Regular Session of the 124th Legislature. The Department of Agriculture, Food and Rural Resources shall post the report on its publicly accessible website as soon as practicable.

APPENDIX II

SUMMARY Recommendations of the LD 2010 Breeding Kennel Working Group

RECOMMENDATION #1

- That the Department in conjunction with the Standing Committee for Agriculture, Conservation and Forestry research funding options to increase the number of full time District Humane Agents and supporting staff.

RECOMMENDATION #2

- Adopt a new definition for “breeding kennel”; in both Title 7 and Title 17
- Adopt the proposed fee schedule for kennels;
- Adopt the proposed statute that would allow the Department to institute re-inspection fees of kennels who consistently fail licensing standards that require numerous site inspections by staff.

RECOMMENDATION #3

- Adopt the definition for “vendor” to be included in Title 7 Chapter 745 Sale of Dogs and Cats.
- Amend Title 7 Chapter 745 Sale of Dogs and Cats to insert the word “vendor” following “seller”
- Amend Title 7 Chapter 745 Sale of Dogs and Cats to allow the Department to suspend or revoke a breeding kennel license pending an Administrative Hearing as defined by the Maine Administrative Procedure Act.

RECOMMENDATION #4

- **ADD** a new section (B) to Title 7 MRSA 3935
- **ADD** a new section (4-b) to Title 7 MRSA 4151
- **AMEND** the following sections of MRSA

Title 7 MRSA 3907. Definitions subsection 8-A

Title 7 MRSA 3931-A subsection 2

Title 7 MRSA 4152 Disclosure subsection A-6, A-7, B, C, D, 2, 3-C

Title 7 MRSA 4153 Sale Prohibited

Title 7 MRSA 4155 Rights of the Purchaser subsection 2, 3, 3-A, 5

Title 7 MRSA 4156 Responsibilities of the Purchaser subsection 1, 2

Title 7 MRSA 4157 Rights of the Seller subsection 1,

Title 7 MRSA 4158 Contest subsection 1, 2

Title 7 MRSA 4159 Posted Notice

Title 7 MRSA 4160 Notice of Consumer Rights subsection 1

Title 7 MRSA 4162 Additional Penalties

Title 17 MRSA 1011 Definitions subsection 8-A

APPENDIX III – Suggested language for proposed legislation

7 § 3907. Definitions

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

8-A. **Breeding kennel.** “Breeding kennel” means a location where 5 or more adult intact female dogs, wolf hybrids or intact female cats capable of breeding are kept and some or all of the offspring are offered for sale, sold, or exchanged for value. “Breeding kennel” does not include a kennel licensed by a municipality under Section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~, sledding, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold, or exchanged for value ~~with a 12-month period~~ within a calendar year.

a) **“Small Kennel”** means any breeding facility that maintains from 5 to 10 intact female dogs or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

b) **“Medium Kennel”** means any breeding facility that maintains from 11 to 20 intact female dogs or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

c) **“Large Kennel”** means any breeding facility that maintains from 21 or more intact female dog or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

CHAPTER 723 FACILITY LICENSES

7 § 3931-A. Breeding kennels

1. **License necessary.** A person maintaining a breeding kennel, as defined in Section 3907, must obtain a license from the department and is subject to rules adopted by the department. The license expires 12 months after the date of issuance.
2. **License fees.** The fee for a Small Kennel breeding license is \$75. The fee for a Medium Kennel is \$250. The fee for a Large Kennel is \$500.
3. Dog licenses. [1993, c. 468, §13 (rp).]
4. Surcharge on sale of dogs and cats. Repealed 2006
5. License number requirements. A breeding kennel shall prominently display in ~~written~~ any advertising the state-issued kennel license number.

The breeding kennel shall provide its license number to a person purchasing or ~~receiving~~ obtaining an animal from the breeding kennel

6. Conditional breeding kennel license: Upon application the Department shall issue a conditional breeding kennel license. The conditional license shall be in effect until the facility passes inspection as required by Title 7 § 3936. If a breeding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional breeding kennel license may be revoked or suspended pending an Administrative Hearing as defined by the Maine Administrative Procedure Act.

7 § 3935-B. Reinspection required for violations.

If, upon inspection, the commissioner or the commissioner's designee finds a licensee under this subchapter to be in violation of requirements of this subchapter or rules adopted under this subchapter, the commissioner or the designee shall issue a written notice describing the violation, the required corrective action to be taken by the licensee and the date by which the correction must be made. If the corrective action has not been taken within the specified period and a 3rd or further inspections are required in any calendar year, the department shall charge the licensee a reinspection fee equal to 50% of the original license fee for each follow-up inspection. The department shall notify the licensee in writing about the reinspection fee at the time the original notice is issued.

The Department may revoke, suspend, or refuse to renew a breeding kennel license if the kennel owner fails to correct the violations within the date noted in the original notice or by any follow up dates pending an administrative hearing as defined by the Maine Administrative Procedure Act.

Chapter 745 SALE OF DOGS AND CATS

7 § 4151. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 589, §1 (new).]

- 4a. Seller. "Seller" means the owner or operator of a breeding kennel as defined in Section 3907, subsection 8-A or the owner or operator of a pet shop as defined in section 3907, subsection 23. "Seller" includes animal dealers required to be licensed by the United States Department of Agriculture. "Seller" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal shelters licensed in accordance with section 3932-A.
- 4b. Vendor. "Vendor" means the owner or keeper of a dog or cat that does not meet the minimum definition of a breeding kennel but advertises for

sale, sells or exchanges for value more than one dog or cat under the age of 6 months in a calendar year.

7 § 4152. Disclosure

1. **Required disclosure.** A seller or vendor shall deliver to a purchaser of an animal a written disclosure containing the following:

A. An animal history that includes:

- (1) For sellers licensed with the United States Department of Agriculture, the name, address and the United States Department of Agriculture license number of the breeder and any and all brokers who has had possession of the animal;
- (2) The date of the animal's birth;
- (3) The date that the seller received the animal;
- (4) The breed, sex, color and identifying marks of the animal;
- (5) The individual identifying tag, tattoo, microchip ID number or collar number;
- (6) For pure bred animals which are advertised as eligible for registration, the name and registration number of the sire and dam, and the litter number, if available. Any seller or vendor that states, promises or represents that an animal is registered or capable of registration with an animal pedigree organization shall provide the purchaser with the appropriate documents within 90 days following the sale of the animal, unless specified otherwise in a contractual agreement signed by the purchaser.

If the purchaser has not received these documents within this time period, the purchaser must notify the seller or vendor in writing via certified mail. The seller or vendor shall have an additional 60 days to provide the documents necessary for registration, and must send them by certified mail.

If the seller or vendor then fails to provide the necessary documents, within the time period specified, the purchaser, upon written notice sent via certified mail may keep the animal and receive a partial refund of 50 % of the purchase price. In this case, the seller or vendor will not be required to provide the registration documents. Acceptance of the registration papers by the purchaser outside of the required time period waives their right to a partial refund.

If an animal's breed is unknown or mixed, it shall be disclosed in writing at the time of the sale.

- (7) A record of inoculations, ~~worming~~ internal or external parasitic treatments, or medication or any veterinarian treatment received by the animal while in the possession of the seller or ~~dealer~~ vendor and proof of veterinary examination as required by Title 7 § 4153
 - (8) The breeders/vendors license number.
 - B. A statement signed by the seller or vendor that the animal at time of delivery has no known health problem or a statement disclosing any known health problem. The statement must include the date at which the seller or vendor is aware that the animal was last seen by a veterinarian.
 - C. A seller or vendor who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal; and
 - D. The seller or vendor shall indicate whether or not, to the seller's or vendor's knowledge, the animal or its sire or dam is registered with a pedigree organization, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms.
2. **Optional disclosure.** The seller or vendor may provide the purchaser with a list of congenital or hereditary problems that are known to affect the breed being purchased and a list of any health problems for which the seller or vendor does not warranty the animal.
 3. **Disclosure procedures.** The following disclosure procedures must be followed:
 - A. The disclosure required by subsection 1 must be made part of the statement of consumer rights set forth in section 4160.
 - B. The written disclosure made pursuant to this section must be signed by either the seller or vendor certifying the accuracy of the statement and by the purchaser of the animal acknowledging receipt of the statement.
 - C. The seller or vendor shall make a prospective purchaser aware that the purchaser may see this information prior to purchase.

7 § 4153. Sale Prohibited

Within 5 days of receipt, but before sale; or in the case of an animal born and raised on the seller's premises, within 5 days of it becoming eligible for sale at 56 days to

anytime before sale, the animal must be examined by a licensed veterinarian for overall health. Any health problems discovered upon examination must be disclosed as required by Title 7 § 4152 1 A (7) at the time of sale. The seller or vendor may not sell an animal that has not been examined by a veterinarian as required.

Notwithstanding Section 4152, a seller or vendor may not sell an animal that has any obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality or has any disease, illness or condition that requires hospitalization or nonelective surgical procedures.

7 § 4155. Rights of the Purchaser

1. **Unfit for sale.** If, within 10 days after receipt of the animal by the purchaser, a veterinarian states in writing that the animal has a health problem that existed in the animal at the time of delivery or if, within one year after receipt of the animal by the purchaser or vendor, a veterinarian states in writing that due to a hereditary or congenital defect the animal has died or has a condition that will shorten its life or will require constant treatment during its life, the animal is considered to have been unfit for sale at the time of the sale.
2. **Death; remedies.** When an animal dies due to a health problem that would have rendered the animal unfit for sale pursuant to Subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of Section 4152, the seller or vendor shall provide the purchaser with one of the following remedies selected by the purchaser:
 - A. An animal of equal value, if available; or
 - B. A refund of the full purchase price of the animal.
3. **Health problem; remedies.** When an animal has a health problem that renders the animal unfit for sale pursuant to Subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of Section 4152, the seller or vendor shall provide the purchaser with one of the following remedies selected by the purchaser:
 - A. Return of the animal to the seller or vendor for a refund of the full purchase price of the animal.
 - B. Exchange of the animal for an animal of the purchaser's choice of equivalent value, providing a replacement is available; or
 - C. Retainment of the animal and reimbursement of ½ of the reasonable veterinary fees not to exceed ½ of the original purchase price of the animal.

4. Veterinary service is appropriate for the diagnosis and treatment of the health problem and the fee for the service is comparable to fees charged by other veterinarians who are in proximity to the treating veterinarian.
5. Sellers/Vendors not exempt. Sellers or vendors may not, contractually or otherwise, exempt themselves from the remedies provided by this section for deaths or health problems caused by infectious, contagious, parasitic or communicable disease.

7 § 4156. Responsibilities of Purchaser

To obtain the remedies provided in Section 4155, the purchaser has the following responsibilities with respect to an animal with a health problem:

1. **Veterinary diagnosis.** The purchaser must notify the seller or vendor, within 2 10 business days, of the diagnosis by the veterinarian of a health problem and provide the seller or vendor with name and telephone number of the veterinarian and a copy of the veterinarian report on the animal.
2. **Refund.** If the purchaser wishes to receive a full refund for the animal, the purchaser must return the animal no later than 2 business days after receipt of a written statement from a veterinarian indicating that the animal is unfit due to a health problem. With respect to a dead animal, the purchaser must provide the seller or vendor with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the receipt of the animal by the purchaser.

7 § 4157 Rights of Seller or Vendor

1. **Refusal to sell.** A seller or vendor may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter.
2. **Exemption from purchaser remedies.** A refund, replacement or reimbursement of veterinary fees is not required if any one or more of the following conditions are met.
 - A. The health problem or death of the animal resulted from maltreatment, neglect or a disease contracted while in the possession of the purchaser or from an injury sustained subsequent to receipt of the animal by the purchaser.
 - B. A disclosure statement was provided to the purchaser pursuant to section 4152 that disclosed the health problem for which the purchaser seeks to return the animal.
 - C. The health problem is a hereditary or congenital one covered by section 4152.
 - D. [2007, c. 439, §33 (RP).]

7 § 4157sub-§2 d. Repealed

7 § 4158. Contest

1. Demand for remedy; contest. When a seller or vendor wishes to contest a demand for the remedy specified in Section 4155, the seller may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the seller. The veterinarian designated by the seller must be practicing at a veterinary clinic within 100 miles of the purchaser's residence. The seller or vendor has a right of recovery against the purchaser if the seller is not obligated to provide a remedy under Section 4155.
2. **Right to court action.** If the seller or vendor does not provide the remedy selected by the purchaser set forth in Section 4155, the purchaser may initiate a court action. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees.

7 § 4159. Posted Notice

A seller or vendor whose facility has public access shall post, in a prominent location in the area to which a prospective purchaser would have access, a notice printed in a minimum of 48-point, bold-faced type and containing the following language:

“YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND DISCLOSURE OF YOUR ANIMAL’S HEALTH HISTORY AND THE WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE TIME OF PURCHASE.”

7 § 4160. Notice of Consumer Rights

1. **Written notice.** A seller or vendor shall provide the purchaser a written notice of rights, signed by the seller or vendor, certifying the accuracy of the information contained in the notice. The notice must be signed by the purchaser, acknowledging that the purchaser has reviewed and understood the written notice. A signed copy must be retained by the seller or vendor and one copy given to the purchaser. The notice must be in a minimum of 16-point, bold-faced type and must state the following:

“A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND CATS:

The sale of dogs and cats is subject to consumer protection regulations. Maine law also provides safeguards to protect sellers, vendors and animal purchasers. Attached is a copy of the Maine Revised Statutes, Title 7, Chapter 745.

Contained in this law is a statement of your consumer rights and remedies. Also attached is your pet’s health history and specific warranty information.”

2. **Oral notice.** In addition, all medical information required to be disclosed pursuant to this section must be orally disclosed to the purchaser by the ~~dealer~~ seller or vendor prior to purchase.

The statement of consumer rights must also contain or have attached the disclosure required under Section 4152 and the name and phone number of the state agency to be contacted in the event of perceived violations of this chapter.

7 § 4161. Limitation

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law.

7 § 4162. Additional Penalties

1. **Civil violation.** A person who fails to meet a requirement of this chapter commits a civil violation for which a forfeiture not ~~to exceed \$100~~ less than \$250 or more than \$500 per violation may be adjudged.

Action against pet shops and breeding kennels. ~~The department may file an action in District Court to revoke or suspend the license of a pet shop or breeding kennel that violates any provision of this chapter~~ may revoke or suspend a breeding kennel or pet store license if a person maintaining the breeding kennel or pet shop violates this part or maintains animals contrary to the rules adopted by the department and/or fails to keep records required by the department pending an administrative hearing as defined by the Maine Administrative Procedure Act.

TITLE 17 - CRIMES CHAPTER 42-ANIMAL WELFARE

SUBCHAPTER I GENERAL PROVISIONS

17 § 1011. Definitions

As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

- 8-A. **Breeding kennel.** “Breeding kennel” means a location where 5 or more adult female intact dogs, wolf hybrids or female intact cats capable of breeding are kept and some or all of the offspring are offered for sale, sold, or exchanged for value. “Breeding kennel” does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~, sledding, field trials or

exhibition purposes and not more than 16 dogs are offered for sale, sold, or exchanged for value with a 12-month period.

a) **Small Breeder.** “Small Breeder” means any breeding facility that maintains from 5 to 10 intact female dogs or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

b) **Medium Breeder** “Medium Breeder” means any breeding facility that maintains from 11 to 20 intact female dogs or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

c) **Large Breeder.** “Large Breeder” means any breeding facility that maintains from 21 or more intact female dogs or cats and some or all of the offspring are offered for sale, sold, or exchanged for value.

Appendix IV

Minority Report

Minority Report Comments

Submitted by Norma J. Worley & Christine Fraser, DVM

Department of Agriculture Animal Welfare Program

The Department agrees with the insertion of the term “vendor” into the Sale of Dogs and Cats (Title 7 Chapter 745). However, by including “vendor” in this Chapter and holding them to the same accountability as the licensed breeder would result in an increase of the workload for both the Animal Welfare Program and the Attorney General’s Office – Division of Consumer Protection.

A fiscal note from the Department would be required for an additional 0.5 FTE to investigate violations of statute by “vendors”. Unknown what the impact on the SAG would be.

Minority Report Comments

Submitted by Larry Doyon, Representing Licensed Dog Breeders

Title 7 § 3907 Definitions 8-A. Breeding kennel. “Breeding kennel” means a location where 5 or more adult dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold, or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. **“Breeding kennel” does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, mushing, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold, or exchanged for value with a 12-month period.**

Larry Doyon, who represents the Licensed Dog Breeders in the State of Maine strongly recommends and requests that the breeding kennel exception for kennels licensed by a municipality (see above) be removed. Mr. Doyon stated that he was overwhelmed by the number of phone calls, emails, etc. from licensed breeders who have stated that this exemption is an unfair business practice and is a ruse used by breeders disguising themselves as a “show”, “training”, etc. kennel whom are operating as kennels taking full applicable tax deductions as a business entity under Maine Revenue Services laws.. This exemption will also cause a loss of revenue for the Animal Welfare Program.

Minority Report Comments

Submitted by Katie Lisnik, Representing Animal Advocacy Groups

7 § 3931-A. Breeding kennels (6): Conditional breeding kennel license – We feel that a conditional breeding license should not be issued unless the site has been inspected. We understand that the State Humane Agents have many inspections to do and it may take a while to make it to every site, however, we do not feel it in the best interest of the state to essentially “approve of” a breeding kennel site without having seen it. Consumers will see that they facility has a license and will assume that it is a good place to buy a dog

from, which may not be the case. If breeders are committed to the hobby, then they can wait a few months to get their license.

7 § 4152. Disclosure (7): This section should be broadened to include disclosure of any and all veterinary treatment that the animal received while owned by the breeder.

7 § 4155. Rights of the Purchaser (2): There should be more of a penalty for selling an animal unfit for sale who dies (i.e. a refund of 150% of the purchase price of the dog/cat, not just cost of the dog/cat, or at least purchase price of the dog/cat plus vet bills at least up to the purchase price of the dog/cat again).

Also, for animals who are unfit for sale but live, the purchaser should be eligible for veterinary fees up to the full purchase price of the animal. These changes would ensure that sellers or vendors are motivated to be selling healthy animals. Right now the worst they will have to do is refund the money they received for the animal- this is really not a deterrent for selling ill animals. Many purchasers would not go through the paperwork just to get their money back and many non-reputable breeders count on this.

7 § 3907. Definitions (8-A) We feel that there are too many exemptions in this definition. Regardless of what the kennel views as its primary purpose, i.e. showing, sledding etc there is still breeding going on. We feel that anyone who purposefully breeds animals, whether it is to sell, show or replace stock, should still be held accountable and licensed as a breeding kennel. Regardless of the end result, the animals deserve to have the protections afforded to them by these statutes.

Finally, while this section was not included in the final report, we feel it important to limit the number of intact adult animals a facility can keep. A number that has been put into statute in other states is 50. Having a limit of 50 dogs or less would have caught every recent dog neglect case at a much earlier stage, therefore sparing hundreds of animals' needless suffering and saving the Animal Welfare Program hundreds of thousands of dollars. It is a very rare kennel that can adequately care for more than 50 adult dogs, providing them with needed medical care, exercise and mental stimulation.

These large, factory style puppy mills have no place in Maine.